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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,247	04/13/2004	Philippe Meert	38996-1	4064
45187	7590	05/29/2007		
PHILIPPE MEERT AAIGEMDORP 84 AAIGEH, COST-VLAANDEREN, 9420 BELGIUM			EXAMINER WALCZAK, DAVID J	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 05/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/823,247	MEERT, PHILIPPE	
	Examiner	Art Unit	
	David J. Walczak	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30,38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) 22,23,26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17,19-21,24,25,28,30,38 and 39 is/are rejected.
- 7) ☒ Claim(s) 18 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species I, Sub-species A in the reply filed on 11/10/06 (and again on 2/7/07) is acknowledged.

In the response filed on 2/7/07, the Applicant indicates that the claims encompassing the invention are 27 and 31-37, however, these claims have either been (as indicated via status identifiers) "withdrawn" or "canceled". Apparently, the Applicant intended to indicate that claims 1-26, 28-30, 38 and 39 read on the elected embodiment (as evidenced by the status identifiers). However, claims 22, 23, 26 and 27 do not read on the elected embodiment. Accordingly, claims 1-21, 24, 25, 28-30, 38 and 39 will be examined herein while claims 31-37 have been canceled and claims 22, 23, 26 and 27 being hereby withdrawn since they are directed to a non-elected embodiment.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

It is noted that the Applicant's current declaration indicates "....as defined in 37 CFR 1.56(a)" (as opposed to 37 CFR 1.56). Correction is needed.

Abstract

The abstract of the disclosure is objected to because phrases that can be implied, such as "Provided is" (see line 1) should not be present therein. Correction is required. See MPEP § 608.01(b).

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The terms "housing, "fluid reservoir" and "evacuation means" (see lines 3-5 of claim 1) and "activation means" (claim 11) do not have antecedent basis in the detailed description of the invention. It is noted that while these terms are present in the summary of the invention, in the interest of clarity, the terms should also be present in the detailed description. Further the "method" as defined in claims 38 and 39 also does not have antecedent basis in the specification. The Applicant should review all of the claims to ensure that all of the terms used therein have antecedent basis in the specification.

Claim Objections

Claim 11 is objected to because of the following informalities: On the last line of claim 11, it appears that "distal" should be --proximal-- in that the activation means is

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located closer to the proximal end of the arms than the distal end (as these ends are defined in claim 1). Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 6-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Petkoff (as cited by Applicant).

In regard to claim 1, Petkoff discloses an apparatus for cleaning eyeglasses comprised of a housing 4, a fluid reservoir 5, an evacuation means 6, 2d for pressurized evacuation of fluid W from the reservoir wherein at least part of the evacuation means is arranged in the reservoir and two arms 2b attached to the housing at their proximal ends and extending outward from the housing and wherein each arm has a wiping pad 1 at its distal end and is spring biased into a nominal orientation such that the pads may be compressed, i.e., as the arms are disclosed as being resilient (column 1, line 30) they are considered to be "spring biased" due to the resilient nature thereof and can obviously be pressed toward each other.

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In regard to claim 2, each arm is considered to be "pivotally attached" to the housing in that due to the resilient nature of the arms, the point at which they are connected to the housing will act as a pivot point.

In regard to claim 6, the arms are fixedly attached to the housing and are formed from a resilient material.

In regard to claim 7, the reservoir 5 is mounted in the housing.

In regard to claim 8, a cover 3 slides onto the housing and covers the arms.

In regard to claim 9, the reservoir is "substantially" shape retaining.

In regard to claim 10, the wall of the reservoir defines a seal which is able to be burst.

In regard to claim 11, the evacuation means includes an activation means 6 located "close to the distal ends of the arms".

In regard to claim 12, the activation means is pressed to initiate evacuation of the fluid.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petkoff. In regard to claim 5, although the Petkoff device does not include an

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aerosol system for evacuating the fluid, the Examiner takes official notice that such aerosol systems are commonly employed on cleaning devices in order to enable the device to effectively dispense material and to enable the device to carry a large quantity of material (under pressure). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the dispensing system disclose by Petkoff can be replaced with an aerosol system in order to enable the device to carry a larger quantity of material, especially since the Applicant has placed no criticality on the type of dispenser used (and in fact discloses that various types of suitable dispensers can be used, see page 9, lines 6-8) and the Petkoff reference is no way limits the type of dispensing mechanism that can be employed.

In regard to claims 38 and 39, the method as claimed can obviously be practiced by the device discussed supra.

Claims 3, 4, 13-17, 19, 20, 21, 24, 25, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petkoff in view of van Rensburg.

In regard to claims 3, 4 and 13-15, as discussed above, Petkoff discloses an apparatus comprised of housing, reservoir and arms. Although the Petkoff device does not employ a manual pump, attention is directed to the van Rensburg reference, which discloses another cleaning device wherein a manual pump 34 is employed in order to effectively dispense material from the reservoir. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the squeeze-type dispensing mechanism of Petkoff with a pump type dispensing mechanism wherein such a modification would amount to the mere substitution of one

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functionally equivalent dispensing mechanism for another and the selection of either mechanism would work equally well on the Petkoff device, especially since, as discussed supra, the Applicant has placed no criticality on the type of dispenser used and the Petkoff reference is no way limits the type of dispensing mechanism that can be employed.

In regard to claim 16, the arms and the housing are considered to be "one integrated part".

In regard to claim 17, the reservoir is mounted in the housing.

In regard to claim 19, the outer perimeter of the pads define an "extending section" around the perimeter thereof.

In regard to claim 20, support plates 2c are attached to the distal end of the arm wherein the extending sections of the pads are pressed against the support plates during use.

In regard to claim 21, although the Petkoff reference does not disclose the particularly claim structure of the wiping pads, the Examiner takes official notice that such pad are commonly structure as a sponge wrapped in wiping material in order to effectively clean a surface. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that such a wiper can be used on the Petkoff device in order to enable the wiper to effectively clean the surface.

In regard to claim 24, the reservoir is a disposable capsule filled with cleaning liquid.

In regard to claim 25, the fluid reservoir is a capsule and element 2d defines a sealing cap and hollow channel in the reservoir.

In regard to claim 28, the capsule is sealed by a cap 2d that is detachably fixed to the housing.

In regard to claim 30, cover 7 stores spare pads 8.

Allowable Subject Matter

Claims 18 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Knooihuizen, Gray et al. and Schlechter references are cited for disclosing other cleaning devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huson Gregory can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
5/15/07